

Army Pamphlet 690-80
NAVSO P-190
AFM 40-8
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Civilian Personnel

Use and Administration of Local Civilians in Foreign Areas During Hostilities

Headquarters
Departments of the Army, Navy, Air Force,
and the Marine Corps
Washington, DC
12 February 1971

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SUMMARY of CHANGE

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Not applicable.

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Use and Administration of Local Civilians in Foreign Areas During Hostilities

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*This pamphlet supersedes DA PAM 690-80/NAVEXOS P-1910/AFM 40-8/NAVMC 1196, 12 September 1958.

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Chapter 1

Introduction

1-1. Purpose.

This publication provides guidance on the use, administration, and conditions of employment of local national civilian personnel* in foreign areas during hostilities and other emergency situations. It is intended to contribute to the accomplishment of military missions and U.S. international objectives by assuring effective use of an important manpower resource and compliance with applicable law and international agreements. It is intended for use as a basis for development of—

- a. Civilian manpower aspects of contingency plans, standing operating procedures, and directives for emergency situations.
- b. Emergency labor agreements with friendly governments.
- c. Training materials and manuals for U.S. military and civilian personnel who are expected to employ or supervise local national civilian personnel in foreign areas during potential hostilities.

1-2. Scope.

This manual supersedes DA Pam 690-80/NAVEXOS P-1910/AFM 40-8/NAVMC 1196, Administration of Foreign Labor During Hostilities, 12 September 1958. It presents basic policies, planning considerations, simplified procedures for use in emergencies, and general guidance for the employment and compensation of local national civilian personnel in military support functions during emergencies. These are subject to the provisions of applicable laws, international agreements and Service regulations except as they may be modified or suspended by competent authority. It does not attempt to prescribe organizational patterns or detailed procedures for administration which more appropriately should be covered in publications of the respective Services.

1-3. Applicability.

a. This publication is applicable to peacekeeping operations of an emergency nature as well as low intensity conflicts and general war situations.

(1) The guidance herein should be incorporated in contingency plans and would be applicable when such plans are placed in operation during hostilities or similar emergencies.

(2) Guidance presented in chapter 4, is applicable in areas where fluid combat or similar emergency conditions permit only basic procedures and conditions of employment and a specialized administration organization is not available.

(3) Upon termination of emergency conditions and a determination that change to normal policies and procedures would be advantageous, establishment or restoration of normal peacetime procedures and conditions of employment would be accomplished in accordance with the policies set forth in appendix A, hereto, and applicable Service regulations.

b. Except as otherwise noted, the guidance herein applies to direct hire local national appropriated fund employees of U.S. Forces in foreign areas. To the extent practicable, the guidance will be followed

(1) to seek comparable employment conditions for employees of nonappropriated fund activities of U.S. Forces in foreign areas,

(2) in negotiating an indirect hire agreement with a friendly foreign government, and

(3) in the administration of indirect hire employees. This guidance does not apply to marine employees of the Military Sealift Command or to personnel obtained by demand requisition as outlined in chapter 5.

c. The guidance herein is not applicable to employees of contractors serving the U.S. Forces. Pertinent policies and procedures applicable to obtaining services by contract are covered under the Armed Services Procurement Regulation, particularly section XXII.

d. Except as indicated in paragraph 8, below, the guidance, herein, is not intended to be applicable to non-U.S. personnel brought by the U.S. Forces into a country which does not claim them as nationals. The possible variations in their status under international law, and in political, military, and employment conditions in their countries of origin, will require that they be treated separately from local national personnel in accordance with applicable host nations legislation regulating their employment, international agreements including agreements with their countries of origin as well as countries where employed, and U.S. military and political considerations.

e. This publication is not applicable to civilian internees or prisoners of war.

* Local national civilian personnel as used in this publication, means citizens of the country where employed refugees, stateless persons, and third state nationals resident in the country, but excludes third state nationals who are imported into the country by the U.S. Force, and U.S. citizens.

Chapter 2

Basic Policies

Section I

General

2-1. Utilization of Civilians.

In order to conserve military manpower and reduce logistical support requirements, maximum use will be made of the services of available local national civilian personnel, consistent with operational requirements and the essential manpower needs of the local economy. Particular attention should be given to the potential use of refugees who may be available in the area for employment. U.S. citizen civilians and third state nationals will be imported into a foreign area only in accordance with existing Department of Defense policies.

2-2. Modification of Existing Employment Systems.

In a friendly country in which local national personnel were being utilized by the U.S. Forces prior to the outbreak of hostilities, previously prevailing conditions of employment will be maintained, if practicable. Modification may be required in accordance with agreements with the host government to meet emergency situations, particularly in such areas as are threatened or under attack. Guidance is provided in chapters 4, 6, 7 and 8.

2-3. Alternative Methods of Hire.

In a country in which the U.S. Forces did not previously employ local nationals, the conditions of employment will be determined in consideration of the needs of the Forces, circumstances in the area, existing agreements, U.S. foreign policy considerations, capabilities and attitudes of the local government concerned, and appropriateness of local employment practices. To the extent practicable, employment conditions will conform to prevailing local customs. Local national personnel may be utilized as:

- a. Direct hire employees of the U.S. Forces obtained through local employment facilities or by direct recruitment.
- b. Employees of a friendly government furnished to the U.S. Forces on a reimbursable cost or other predetermined basis by agreement with the host government, or
- c. Employees of an enemy or ex-enemy government, requisitioned from such government in occupied areas through civil affairs channels, or in the absence of such channels, direct from other local authorities.

2-4. Logistic Support.

Subject to directives of higher headquarters, and applicable international agreements, logistic support furnished local national personnel will be that prescribed by the commander exercising appropriate area responsibility. Rations, when required, will be obtained in accordance with theater policy and may come from available captured enemy stocks or modified U.S. rations. Local national personnel who reside in the locality and report to an established work site, as well as those imported into the locality and those attached to mobile units, may be furnished logistic support required for their protection and support in accomplishment of the command mission. The extent to which the cost of logistic support is deducted from the pay of workers or furnished without charge will be consistent with prevailing practices in the local economy, and civil affairs considerations.

2-5. Third State Nationals.

Conditions of employment for non-U.S. citizen civilians brought across national boundaries for employment by U.S. Forces will be prescribed by the Theater Commander subject to directives of higher headquarters, international law, and prior agreements with friendly governments concerned. Refugees, expellees, stateless persons, and other non-U.S. citizen civilians resident in the area of employment will be employed under the same conditions as local nationals unless applicable legislation or international agreements provide otherwise.

Section II

Staff and Command Responsibilities

2-6. Theater Commander.

Subject to such policies and guidance as may be issued by higher headquarters, the Theater Commander is responsible for insuring that adequate provision is made to satisfy civilian personnel requirements in support of his missions, including those of subordinate elements of his command. Plans and preparations should include?—

- a. realistic estimates of requirements (numbers, skills, logistic support),
- b. arrangements with friendly governments for acquisition and retention of civilian personnel,
- c. standby directives, and
- d. standing operating procedures. The Theater Commander will establish joint personnel committees with Service component representation on an area or country basis to establish uniform positions on compensation and conditions of

employment of local national civilian personnel, to coordinate arrangements with host government agencies, and to insure uniform application of agreed Service positions. To the extent that problems arise in which U.S. diplomatic agencies and/or U.S. Forces civil affairs elements have an interest, such agencies and elements will be consulted and will normally participate in arriving at basic agreements with governments concerned.

2-7. Commanders of Major Service Components.

Subject to directives of higher headquarters, major Service component commanders within a given country are responsible for implementation of Service and Theater policies covering the procurement, utilization, and administration of civilian personnel in support of their missions and will issue necessary command policies, procedures, and regulations. They will assure that appropriate civilian personnel administrative capabilities and guidance are provided to subordinate commands. Under emergency conditions one component commander may be required by the Theater Commander to provide local national civilian personnel administrative service to all U.S. Forces in a given area.

2-8. Service Component Staff.

Every general or comparable staff section of a Service component will have a certain interest or responsibility in the employment, control, utilization, support, or administration of available civilian manpower. To insure the orderly and effective utilization and administration of both United States and foreign military and civilian manpower, it is recommended that the overall staff responsibility for the employment of civilian personnel be assigned to the staff officer having major responsibility for personnel or manpower matters, and that he be provided with an appropriate staff who have had training and experience in civilian personnel management. He would coordinate with other staff officers on those aspects of the program which are not normally his functions.

CONSIDERATIONS AFFECTING THE DETERMINATION METHODS OF HIRE AND CONDITIONS OF EMPLOYMENT

BY U.S. FORCES

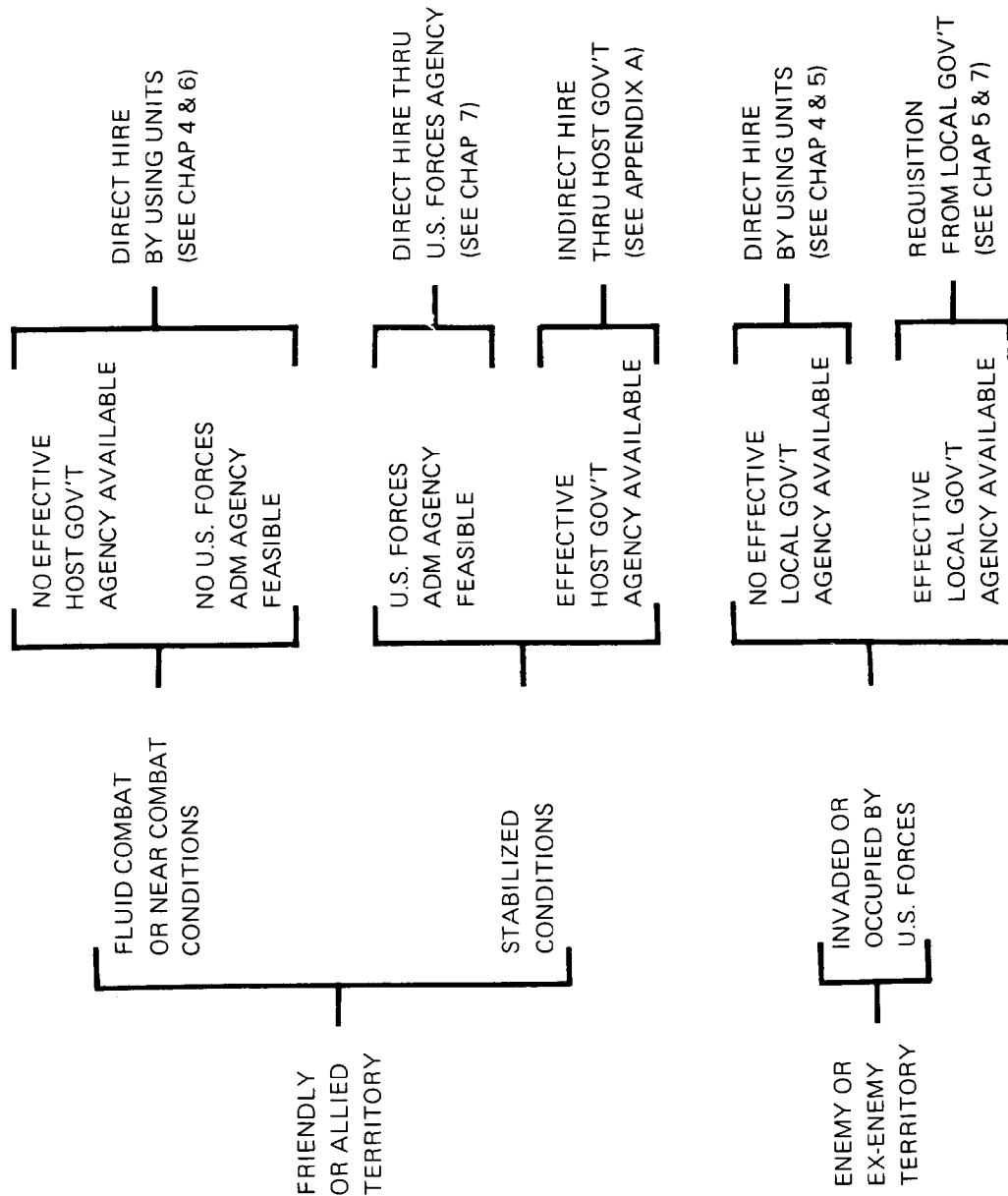


Figure 1. Considerations Affecting The Determination Methods of Hire and Conditions of Employment by U.S. Forces

Chapter 3 Planning Considerations

3-1. General.

Use of local national civilian man power depends primarily on the availability of such personnel in the numbers and skills required by U.S. Forces. Within the framework of the general policies and procedures, set forth in chapter 2 above, specific plans must be made for the use and administration of available civilian manpower fitted to each phase and area of operations. Figure 1 indicates the situations in which the following chapters of this publication provide guidance. Contingency plans should include:

a. Estimates, as realistic as practicable, of the numbers and categories of civilian man power available and needed for employment?

- (1) in various military support functions,
- (2) in successive phases of operations, and
- (3) at various locations.

b. Standby directives and standing operating procedures prescribing responsibilities and procedures for the procurement, utilization, and administration of local civilian personnel in support functions.

c. Directives prescribing rates of pay and other conditions of employment.

d. Provision for the organization, conditions powers, of employment, and use of mobile civilian labor units in areas where labor would not otherwise be available in sufficient numbers and skills.

e. Such arrangements with friendly government agencies as are feasible to:

- (1) Establish priorities for retention or acquisition of local national civilian personnel in anticipated emergencies.
- (2) Provide simplified procedures for the procurement and administration of such personnel and mutually acceptable conditions of employment.

f. Provision for a trained cadre of military or civilian personnel in readiness to obtain, organize, administer, and supervise civilian labor in areas where a civilian personnel administration capability would not otherwise be available. (TOE 20-20 provides a military organization for the administration of civilian manpower in support of a field army).

g. Provision for military support units to perform functions or operations for which civilian personnel may not be available in sufficient numbers or skills.

3-2. Required Information.

It is essential that contingency planners be provided with current information on applicable treaties and agreements, international law and U.S. law relating to the use of local civilians in military support functions during hostilities. In addition they must have current information and estimates from intelligence and/or civil affairs channels covering the:

a. Anticipated amount of civilian manpower available for military support functions in the objectives area, broken down, where appropriate, as to?—

- (1) nationals of allied or cobelligerent powers,
- (2) nationals of enemy or ex-enemy
- (3) nationals of neutral powers,
- (4) significant local national minority groups, and
- (5) anticipated numbers of refugees, expellees and stateless persons.

b. Geographical concentration or dispersion of available manpower.

c. Skills which reasonably may be expected.

d. Current level of wages, especially the rates for common laborers, vehicle and other equipment operators, building trades journeyman, and other significant occupational and skill categories.

e. Extent to which food, clothing, and shelter would be available from the local economy.

f. Anticipated attitude of the local population toward the U.S. Forces.

g. Anticipated health conditions.

h. Existence of a local government, its capabilities in matters of labor relations, manpower control, and administration, and its expected attitude toward the U.S. Forces.

i. Labor laws, regulations, practices, and customs of the country.

j. Religious or social customs of the population which would have important bearing on employment with the U.S. Forces.

3-3. Limitations on Use of Civilian Personnel.

a. *Hague Convention.* The Hague Convention No. IV Respecting the Laws and Customs of War on Land, of October 18, 1907, places restrictions on the services which may be demanded from the inhabitants of an occupied country. The essential provisions in Article 52 of the Annex to the Convention are:

... services shall not be demanded from ... inhabitants, except for the needs of the army of occupation. They shall be ... of such a nature as not to involve the population in the obligation of taking part in military operations of the war against their country.

Such ... services shall only be demanded on the authority of the commander in the locality occupied. . .

b. *Geneva Convention.* The Geneva Convention Relative to the Protection of Civilian Persons in Time of War, dated 12 August 1949, treats employment of the civilian population by the armed forces of conflicting nations in time of declared war and during periods of armed conflict in considerable detail. Pertinent articles of the Convention are quoted in appendix B of this manual for information and compliance.

c. *Other International Agreements.* Status of forces agreements and base rights agreements with the principal

countries in which U.S. Forces are stationed, together with subsidiary labor agreements with host government agencies, provide methods and conditions of employment applicable in peacetime. These will continue to be applicable during hostilities unless provisions are made for appropriate modification. These agreements vary widely from country to country, but in most countries they provide for various fringe benefits and protections to workers which are uncommon in the United States.

d. Maintenance of Essential Civilian Services. U.S. Forces when planning the use of local civilian personnel in a foreign country, will take into consideration the manpower needs of the country concerned in essential service fields such as public safety, public health, food production, public utilities, transportation, and similar activities. This consideration is particularly important in those areas where such activities have been disrupted as the result of war, or where labor is in short supply. It is a function of civil affairs elements of the U.S. Forces to reconstitute an effective governmental structure in both friendly and former enemy territory where the normal government has been disrupted. Manpower needs for the functions of sanitation and the health of the local population will rank on a parity with the requirement of military units for local labor.

3-4. Local Employment Practices.

It is recognized that conditions of employment such as wages, allowances, social insurance, logistic support, discipline, and relations with employee organizations and local government authorities will vary from country to country, within a given country, and from phase to phase of various contingencies which may arise. Only general guidance can be provided as to the principles to be applied in determining employment conditions. U.S. Department of Labor, Bureau of Labor Statistics Reports (listed in app C) provide information as to peacetime employment practices, wages and supplemental payments, health and safety precautions, and social insurance as well as industrial relations and labor resources of selected countries. However, such information must be evaluated in the light of conditions which may prevail during hostilities or other possible emergencies and which may preclude continuation of normal peacetime employment practices.

3-5. The Anticipated Military Situation.

Conditions of employment may be quite different in?--

- a.* fluid situations where employing units may remain in place for only short periods,
- b.* remote areas where mobile labor units may have to be brought in and provided with shelter and messing facilities,
- c.* combat areas where only the simplest procedures will be feasible in the employment of available local labor and
- d.* base areas where employees may or may not expect standardized hours of work, pay differentials, social security protections, and other previously prevailing employment practices to be maintained, restored, or perhaps even extended. However, in all areas during hostilities, procedures will need to be streamlined to meet emergency conditions. Broad guidelines are provided in the following chapters.

3-6. U.S. International Objectives.

U.S. foreign policy considerations and objectives in any given emergency will have a bearing on the utilization and employment conditions of foreign civilian personnel in support operations. These objectives may range from programs of supporting the civilian economy to programs of reducing gold flow from the United States. Conflicting objectives may have to be reconciled. In all areas there is the objective of presenting the U.S. Forces as a fair and considerate employer. In friendly areas there is the objective of enhancing the local population's identification with the mission of the U.S. Forces. In occupied enemy areas there is the objective of overcoming opposition to the mission of the U.S. Forces.

Chapter 4

Emergency Administration by Using Units

4-1. General.

Under fluid combat or near-combat conditions such as may exist in?--

- a.* a forward support area,
- b.* temporary enclaves during counterinsurgency operations,
- c.* on initial entry of U.S. Forces into an area, or
- d.* other situations in which it is not feasible to maintain a centralized administrative agency in place, the U.S. Forces' unit* utilizing local civilian manpower may Administer such personnel on a daily hire basis through an officer designated by the unit commander. Within guidelines prescribed by higher headquarters, procedures and conditions of

* The term Using Unit as used in this publication means any U.S. Forces organization responsible for assigning work to civilian personnel and supervising their performance. Unit as used in this chapter means any U.S. Forces organization authorized by higher headquarter to employ local civilians under the conditions characterized in paragraph 4-1.

employment should be prescribed by commanders having general area responsibility. If time and conditions prevent a more suitable arrangement, a standard hourly pay rate should be established by the commander exercising appropriate area responsibility and be paid to all personnel regardless of type of work performed or skill required. An added pay increment should be authorized for personnel used in supervisory positions.

4-2. Pre-Emergency Preparations.

A standing operating procedures or personal annex to an appropriate operation order should be prepared and should include:

- a.* Authorization to appropriate subordinate commanders to procure and utilize locally available civilian manpower in appropriate service support functions.
- b.* Authorized rates of pay and procedures to be followed in requesting changes in rates for direct hire labor.
- c.* Procedures for drawing funds and methods of accounting, if appropriate.
- d.* Preparation, maintenance, and disposition of records of appointment, time, attendance, and payroll.
- e.* Extent of required strength reporting.
- f.* Instructions on types and amounts of logistic support authorized in addition to or in lieu of wages.

4-3. Responsibilities of Unit Officers.

Unit personnel officers or other officers designated by unit commanders should:

- a.* Confer with unit commanders to determine number and type of personnel to be procured.
- b.* Orient supervisors of civilian labor and instruct them on--
 - (1) methods of reporting workers' attendance for payroll purposes,
 - (2) methods by which requests will be made to employ or separate personnel and
 - (3) other information necessary or pertinent, such as logistic support or emergency medical treatment.
- c.* Recruit and employ local labor as required and authorized.
- d.* Determine from local conditions whether or not recommended wage rates are realistic and if not, initiate requests through channels for revision.
- e.* Prepare and submit payrolls and arrange for payment of wages.
- f.* Submit strength reports as required by higher headquarters.

4-4. Liaison with Local Civilian Leaders.

It is important that an effective working relationship be established as soon as possible with civilian leaders such as local government officials, labor leaders, businessmen, and clergy to secure information on the availability of labor and the 'going' wage rates, and to obtain assistance in recruiting personnel in the required skills.

[illegible]

Figure 2. Sample Record of Appointment, Time, Attendance and Pay Roll

4-3. Employment of Workers.

A unit officer should be delegated the authority to recruit workers and to arrange for their employment and payment. Establishment of an effective liaison with local government officials should result in a means of getting the units' needs published and partially filled. However, it is likely that the efforts of these local officials will need to be supplemented. In some cases, the absence of any significant government body in the immediate area may require the unit officer to rely solely on his own resources for securing employees. Assistance may be secured from local influential citizens and businessmen. It may be necessary to launch a house-to-house, door-to-door campaign to recruit workers. Personnel may be placed on the payroll by recording their names on a Record of Appointment, Time, Attendance and Payroll such as illustrated in figure 2. (Air Force personnel will use AF Form 1507, Time and Attendance Card) The form shown in figure 2 may be reproduced locally. For purposes of uniformity and continuity among services in the same or adjacent areas, the form shown should be used without change unless it is clearly unsuitable to the immediate situation.

It may be necessary to provide transportation of workers from a central location to the worksite and return. Unless otherwise instructed by higher headquarters or considered necessary by the local commander, pay will be on an hourly basis, no hours of work or tours of duty will be prescribed, no overtime rate will be paid, no annual or sick leave will be granted and no pay deductions for taxes or social insurance will be made. All personnel employed should be informed of these conditions of employment. In addition, they should be informed that employment is of an emergency, temporary nature and may be terminated at any time without prior notice. In the event that critical labor shortages exist, a report of this fact should be made to the next higher headquarters so that assistance may be obtained in importing labor from other areas.

4-4. Employee Identification.

Unit officers should coordinate with U.S. Forces security activities in establishing a simple system of employee identification. The system should be adequate to satisfy any local security requirements as well as time keeping and pay purposes.

4-5. Time and Attendance Reporting.

Time and attendance records are essential. The same format as illustrated in figure 2 for employment and payroll purposes can be furnished to supervisory personnel at the worksite to be used for reporting time and attendance. This format is so designed as to require little or no explanation. Appropriate controls should be established at the worksite to assure accuracy of the time and attendance reported.

4-6. Arranging for Pay.

Arrangements must be made with appropriate finance activities to assure daily payment of casual labor in local currency since the unit may be subject to unexpected displacement. The same format as in figure 2 may also be used as a pay voucher. Payment will be in cash and delivered to employees at the worksite. Signature of the employee on the format serves as the necessary receipt for the payment.

4-7. Food, Clothing, and Shelter.

In some situations, the provision of food, clothing, or lodging may be necessary. Workers may have inadequate clothing, food supplies and/or lodging facilities. The Unit Officer must ascertain the extent to which his unit will have to overcome such deficiencies and make necessary arrangements with appropriate sources of supply. If clothing is issued or if meals and lodging are to be furnished on a regular or recurring basis, a minimal charge may be made as a deduction from the worker's gross pay when such charge is considered appropriate.

4-8. Records and Reports.

One format of the type illustrated in figure 2 should serve as a personnel and payroll roster. This format should include provision for entries covering the time worked, rate of pay, any deductions and the amount paid, or the commodities delivered if a proportion of pay is made in kind. Maintenance of this form should provide all information for required reports. In the event that a typewriter is not available, an indelible pencil and carbon paper will provide the copies necessary. Even this format provides for slightly more information than is necessary in the first phase of getting workers on the job. However, the information will be very important to those who may take over during a later phase. As a minimum, the name, identification symbol, time worked, rate of pay, and net pay due should be shown for each employee, with space for each employee to sign to indicate receipt of payment. One copy of this format will be protected and periodically forwarded to higher headquarters and subsequently retired to the U.S. National Personnel Records Center as a permanent record of the employment and payment of the local nationals concerned. Any additional reports should be limited to the minimum required for essential purposes by higher headquarters. A line item on the

number of civilians employed, in a periodic report on total unit strength, should be sufficient for manpower control purposes in emergency situations.

4-9. On-the-Job Injuries.

In the event of job-connected injury to local national personnel, the using unit will?--

a. Provide for the emergency medical treatment of the injured employee and transportation to an appropriate civilian medical facility for further treatment if needed.

b. Make a written report of the circumstances which resulted in the injury, which, as a minimum, should contain the name, date of birth, occupation, place of employment, weekly wage, date of injury, place where injury occurred, date pay stopped if appropriate, circumstances causing injury, nature of injury, and certificate of the reporting officer concerning the duty status of the employee at time of injury. Such reports must be transmitted to higher headquarters for retention and use in the event of future claims and for subsequent retirement in accordance with Service regulations. The employee must be informed of his right to file a claim under the Federal Employees Compensation Act (5 U.S.C. 8137) and provisions must be made by responsible commanders for forwarding such claims to proper authorities within the time limits specified in the Act.

4-10. Transfer of Administration.

As soon as conditions permit, the administration of local national civilian personnel used by U.S. Forces units in other than mobile units should be transferred to centralized agencies or support elements prescribed by the appropriate service component commander. Such agencies may be civilian personnel offices, Army units organized under TOE 20-20, or other appropriate agencies. They would remain in place and provide civilian personnel administration service to all service component units and, if appropriate, other U.S. Forces units within given areas. Using units should be authorized to obtain locally available labor by direct hire or requisition demand only as an emergency measure of short duration until deployment of an organization to perform this function for all service component units and activities in the area. Guidance applicable to centralized personnel agencies is provided in chapter 7.

Chapter 5 Modifications in Occupied Enemy Areas

5-1. Requisition Demand.

In occupied enemy territory, when labor is procured by requisition demand on the local government, that government will be responsible for furnishing, administering, and paying such personnel, and the U.S. Forces will observe the provisions of the Hague and Geneva conventions in their utilization. The terms and conditions of employment and the practices of the government agency in the administration of requisitioned personnel will not initially be interfered with except as they may be necessary to assure effective operations and avoid conditions or practices which would reflect discredit on the fairness and humaneness of the U.S. Forces. As the occupation progresses, however, and conditions become more stable, it may become necessary to direct changes in administration to meet the needs of the occupation forces and U.S. international relations objectives. At the cessation of hostilities, especially when a lengthy occupation is anticipated, a complete review should be made to assure that employment practices relating to local national personnel furnished the U.S. Forces are effective and equitable to all concerned.

5-2. Direct Hire.

In case it is not feasible to obtain local national civilian personnel by requisition in occupied enemy territory, the U.S. Forces may hire such personnel directly and charge their wages and any other expenses to the enemy government as a cost of occupation. The Hague and Geneva conventions will be observed in their administration and employment. Conditions of employment would be similar to those set forth in chapters 4, 6 or 7 as appropriate.

Chapter 6 Mobile Labor Units

6-1. General.

The preceding chapters have been concerned mainly with static labor, i.e., personnel who live within commuting distance and report daily to an established work site. This chapter is concerned with mobile labor required:

a. When the mission of the employing unit is such that it may be expected to move from place to place, and its personnel must have extensive or specialized training, or

b. When the unit or activity employing the labor is located in an area which cannot furnish the required labor in sufficient numbers or skills, and labor must be brought in from other areas of the country, or

- c. Where the distance between the employing unit or activity and the labor source is so great as to pose a major or insurmountable transportation problem, or
- d. Where family type housing facilities are not available at or near the work site.

6-2. Organization.

a. The management of mobile labor is greatly facilitated by organization into units and, when formation of mobile labor units is possible, a considerable conservation of U.S. manpower may be affected. In the event such units are composed wholly, or in part, of personnel falling under the definition of 'protected persons' as set forth in Article 4 of the Geneva Convention (see app B) it is imperative that they retain their identification as civilian workers and that the organization not be military or quasi-military in violation of Article 51 of the Convention. Appendix B outlines the types of duties that 'protected persons' may be required to perform.

b. Organized labor units should be designed primarily to afford a source of mobile labor, and should be of the proper size and composition to perform specific missions. Units may be composed entirely of unskilled labor, such as stevedores; or of semiskilled labor, such as truck drivers; or of appropriate proportions of skilled, semiskilled, and unskilled labor to perform particular technical functions such as would be performed by an engineer construction company.

c. In an area of military operations, it is not uncommon to find people of many nationalities represented in the local population. This condition arises generally when mass migration has taken place as a result of hostilities. These nationalities will differ in varying degrees in regard to language, religious adherence, social customs, political convictions, and in other respects. Units composed of two or more nationalities are difficult to administer or utilize because of these differences. In addition, the utilization of such a unit could be unnecessarily restricted by international treaties or conventions, the provisions of which might apply to only a portion of the personnel. Therefore, personnel of any organized labor unit preferably should be persons of the same nationality.

d. Organized labor units should be activated in accordance with regulations of service component commanders and be based on the needs of the command, availability of personnel, conditions in the local economy, and other significant factors.

e. As an alternative to d. above, appropriately structured mobile labor units not composed of protected persons, may be constituted as elements of an allied military or civilian organization and be placed under operational control of the U.S. Forces.

6-3. Logistic Support.

Mobile civilian personnel will usually be administered by the organization to which they are assigned in accordance with the following guidance as well as that applicable to other local or third state national civilian personnel:

a. Noncombatants certificates of identity. All mobile civilian personnel will be furnished DD Form 489 (Noncombatants Certificate of Identity) as prescribed under C1055 in Appendix B of the Joint Travel Regulations, Volume 2, or a similar noncombatant identification form. Where the local Commander determines that additional identification is needed for security or other purposes a locally devised identification card may be issued. Such cards should be of standard size, printed in both English and the local language, and made so they can be affixed to outer garments for immediate identification. They should be laminated, where feasible, for protection against wear and weather. The cards may be color coded for different zones or work areas and may be periodically rescinded (no set pattern) with changes of design or color to help prevent forgery or misuse.

b. Uniforms and insignia. Major component commanders may supply uniforms of a type to be determined in coordination with appropriate allied authorities.

c. Shelter and messing support. Shelter and messing may be provided by the U.S. Forces unit to which such personnel are assigned or attached.

d. Morale and personnel services. Mobile civilian personnel assigned to units under conditions in which appropriate facilities on the local economy are not available to them will be authorized gratuitous post or base exchange issue of those items considered essential to basic maintenance. Special welfare activities applicable to U.S. personnel will apply where considered appropriate by the local commander.

e. Medical support. Medical and dental treatment and medical evacuation of such personnel may be provided by the major command to which such personnel are assigned. Non-U.S. citizen civilian medical and dental personnel may be used to augment U.S. medical services.

f. Recovery and disposition. Policies applicable to burial of local civilian dead are not applicable to mobile civilian personnel assigned to U.S. units. Commanders at all echelons are responsible for recovery, identification, and evacuation of such personnel. Burial will be in accordance with regulations applicable to civilians accompanying U.S. Forces in the field. Recovery and disposition will be in accordance with agreements with allied governments concerned.

Chapter 7

Administration by Centralized Agencies

Section I

General

7-1. Policies and Procedures.

As soon as a service component commander has established a centralized agency or support element in place to provide civilian personnel administration support to all component organizations and activities using local national civilian personnel in a given area, that agency, within guidance issued by higher headquarters, will establish conditions of employment and compensation conforming to the laws and practices of the country to the extent consistent with the requirements of the situation. Although procedures will differ when such personnel are procured by direct hire, indirect hire from a friendly government, or requisition demand from a local government in an occupied enemy area, basic conditions of employment should be similar. The guidance presented herein will be limited for purposes of simplicity to that appropriate to a direct hire system. Should any deviation from local law appear to be needed, it should be authorized only after agreement has been reached with friendly governments concerned. Guidance for negotiation of an indirect hire agreement is presented in appendix A.

7-2. Records and Reports.

Records and reports indicated in paragraphs 27 and 28 would continue to be used. Additional records and reports may be required for necessary communication between using units and servicing units, control by higher headquarters, and compliance with laws and emergency regulations of friendly host governments.

Section II

Employment Practices

7-3. Pre-Employment Inquiries.

Pre-employment inquiries will depend on such facilities as may exist locally for verifying the previous experience, education, and other qualifications of job applicants and for investigating probable loyalty and honesty. They will depend also on the capability and willingness of local employment and police authorities to ascertain the needed information. Public employment exchanges or other local agencies may or may not be available for supplying labor but, if available, they should be used to the maximum practical extent. However, U.S. Forces should not be committed exclusively to such use.

7-4. Hiring.

Department of Defense and Service controls over civilian personnel spaces may or may not be suspended temporarily in emergency situations in foreign areas. However, except with regard to casual daily hire labor in combat areas, U.S. Forces should comply with emergency manpower priorities established by host governments in friendly areas or by civil affairs authorities in occupied enemy areas. Appropriate identification documents should be required except, in emergencies, for personnel working under close surveillance.

7-5. Notice Periods and Separations.

With the exceptions of certain temporary employees, U.S. Forces will be expected to comply with legislation of friendly host governments regulating notice periods and severance pay unless agreements provide otherwise. To the extent permitted by such agreements required notice periods should be minimal and uniform for all employees hired during the emergency. Severance pay should be granted only in lieu of notice. Pre-emergency notice periods and severance pay provisions for employees hired prior to the emergency should be preserved if possible.

7-6. Disciplinary Actions.

Since civilian personnel employed under emergency conditions will in large part be supervised by military personnel who will be inexperienced in managing foreign civilians, and since disciplinary actions against local nationals are subject to local and international law, it is essential that uniform guidance prescribing the types of employee conduct or omissions for which disciplinary action is required or authorized, limitations on penalties, and appeals procedures, be issued to all units authorized the use of such personnel. Under emergency conditions appeals procedures will be limited and simplified, but it is desirable that some provision for appeal from arbitrary decisions resulting in adverse actions be afforded employees.

Section III Compensation

7-7. Base Pay.

Pay scales may be determined through local wage surveys or by consultation with civil affairs or local government authorities. They must be competitive but should give due consideration to desirable efforts to curb inflationary tendencies in the local economy. In order to simplify pay practices, bonuses, differentials, and allowances customarily paid, may be weighed and taken into consideration in setting base pay for specific occupations and skills rather than be paid separately. It must be recognized, however, that, once various fringe benefits have been incorporated into base pay, they are soon lost sight of by employees who may subsequently agitate for their restoration in addition to current base pay. Also, any other benefits or overtime pay computed as a percent of base pay will be inflated to the extent any fringe benefits are incorporated into base pay.

7-8. Hours of Work and Premiums.

Legal and customary limits on the length of the work day and work week in various occupations may need to be modified to assure optimum production and utilization of available civilian manpower. However, there should be no increase in the length of the periods after which overtime rates would be paid and no decrease in premium pay for overtime because of the emergency. In areas where the U.S. Forces employed local civilians prior to the emergency, pre-emergency provisions for sick leave, maternity leave and premium pay for work on periodic rest days and holidays should be maintained, if possible, to conform to current practice in the local economy. Pre-emergency practices regarding paid leave for vacations may be curtailed if provision is made for the accumulation of such leave by employees hired prior to the emergency. Some provisions should be made for administrative leave in the event of personal or family emergencies.

7-9. Withholdings and Deductions.

To the extent permitted by agreements with friendly host governments concerned, obligations of the U.S. Forces to deduct and withhold income taxes, social insurance contributions, union dues or wage attachments from the pay of employees should be avoided in unstable conditions. If necessary, agreement should be sought for a post emergency lump sum payment based on total payroll to cover any required tax or social insurance obligations.

7-10. Travel and Transportation Expenses.

Provision should be made to follow prevailing local practices regarding relocation costs and compensation for duty connected travel. Under emergency conditions it may be necessary for employing units to provide transportation to and from work sites.

7-11. Compensation for Injuries.

Claims arising from work connected accidents and injuries should be processed in accordance with applicable legislation of the country or, in cases where this may not be feasible, such claims relating to direct hire employees will be processed in accordance-with U.S. Department of Labor, Bureau of Employees Compensation, procedures.

Chapter 8 Employee Organizations

8-1. General

In forward areas during hostilities, it is unlikely that there will be any great amount of labor union activity among civilian personnel employed by the U.S. Forces. Under other conditions at differing locations however, activity by labor organizations may be expected which will necessitate relationships between the U.S. Forces and these organizations. The term 'labor organization' as used in this chapter does not embrace those associations whose objectives are determined by appropriate civil affairs or security authorities to be in conflict with basic U.S. Forces' objectives.

8-2. Relationships With Labor Organizations.

a. Because of the diverse circumstances that may arise in foreign areas, only general principles on the subject of relationships are stated herein. Relationships will depend largely on the degree of union membership and union discipline among employees of the Forces and on the method of hire, whether direct, indirect, or by requisition demand. The extent to which the U.S. Forces will be required to deal with local labor organizations will depend on the distribution of responsibilities between the foreign government and the U.S. Forces in the system under which their local national personnel is utilized. In any union relationships, the U.S. Forces will demonstrate a friendly and reasonable attitude. The U.S. Forces should not undertake negotiations on any aspect of employment conditions for which they do not have the responsibility for decision.

b. It must be recognized that local public opinion may serve as final arbiter in any serious dispute between an employer and a labor organization. The U.S. Forces in their role as an 'outsider' in a foreign country will seldom be in a position to enlist public opinion on their side in a labor dispute.

8-3. Membership and Activity.

a. The U.S. Forces should place no restriction on the right of local national civilian personnel to join or refrain from joining a labor organization unless such right or privilege is denied them by local law or by civil affairs authorities. The employment status of a person employed or utilized by the U.S. Forces should, so far as the U.S. Forces are concerned, be unaffected by membership or nonmembership in such an organization, except when such membership may raise security considerations.

b. The conduct of organizing activities by a labor union within a U.S. installation in a foreign area during hostilities is not likely. The obligation of the commanding officer to avoid disruption of the work normally precludes authorizing personnel to engage in activities such as soliciting membership, collecting dues, and distributing literature or handbills during work hours. Maintenance of security may make it difficult to permit officials of labor organizations, who are not themselves members of the work force, to have access to U.S. installations. This fact, in itself, will not preclude meetings between U.S. officials and officials of labor unions.

Chapter 9 Training Requirements

9-1. Command and Staff Elements.

Military-logistical exercises having a simulated foreign locale should include appropriate problems based on the doctrine presented in this and related Service publications. Such problems should be designed to alert participants to the interests and responsibilities of various Command and staff elements, civilian agencies, and employee organizations concerned with the use, conditions of employment, or administration of civilian manpower during hostilities.

9-2. Employee Supervisors.

Pre-emergency training of military personnel who will be concerned with administering or supervising local civilian personnel in foreign areas should include some orientation on the contents of this and related service publications, and on Command plans for the use of local national civilian manpower, standing procedures for its administration in emergencies, and available information on the characteristics and work habits of the population in objective areas. As a minimum, supervisors should be furnished with reference materials on these subjects as soon as possible during operations. When employees cannot converse in English and the supervisor does not speak the local language, supervisors are encouraged to employ a local national interpreter.

9-3. Training of Employees.

Except in areas where local Nationals were employed by U.S. Forces prior to the emergency, it may be impossible to anticipate the variety of skills training requirements which may arise. Emphasis will be on making maximum use of skills already possessed by the employee and on upgrading those skills by such basic on-the-job training as can be provided by the employee's immediate supervisor. Supervisors should be cautioned that, to the extent that native work methods will serve the purpose, it may be more productive to make use of such methods than to attempt to retrain employees. As soon as conditions are sufficiently stabilized, and when continued employment of a local national workforce can be anticipated, consideration should be given to inauguration of a centralized training program to develop skills found to be in short supply. Courses ranging from one to three weeks in duration in language training, vehicle and heavy equipment operation and maintenance, construction skills, clerk-typing, card punch operation and similar subjects have been found productive in situations where such skills were in short supply but where native instructors were available or could be quickly developed.

Appendix A

REFERENCES

Section I

Required Publications

This section contains no entries.

Section II

Related Publications

This section contains no entries.

Section III

Prescribed Forms

This section contains no entries.

Section IV

Referenced Forms

This section contains no entries.

Appendix A.1

DEPARTMENT OF DEFENSE INSTRUCTION 1400.10, 8 June 1956, as amended, UTILIZATION BY UNITED STATES FORCES OF LOCAL NATIONALS IN FOREIGN AREAS

A-1. Department of Defense Instruction.

Number 1400.10, 8 June 1956.

NUMBER 1400.10
DATE June 8, 1956

Department of Defense Instruction

SUBJECT Utilization by United States Forces of Local Nationals in Foreign Areas

Reference: (a) Department of Defense Directive 1400.6, "Statement of Personnel Policy for Civilian Personnel of the Department of Defense in Overseas Areas", October 5, 1954

I. PURPOSE

A. This Instruction supplements paragraphs 2 and 10 of part II of the above reference and is intended to set forth some of the principles to be followed in negotiating arrangements for the utilization or employment of non-U.S. citizen personnel by the U.S. Armed Forces in foreign areas. It is further intended that it serve as a basis for administrative determination of policies, programs and practices in such utilization or employment. The negotiation of basic arrangements with the host government is the responsibility of the Department of State. The Department of Defense or its agencies usually participate in the negotiations, at least to the extent of furnishing technical advice and guidance to the Department of State.

B. Non-U.S. citizen personnel are currently employed or utilized under a variety of systems which have developed out of practical working arrangements in those foreign countries where the U.S. Forces are stationed. Background conditions and foreign policy considerations relating to arrangements for utilization of non-U.S. citizen personnel by U.S. Armed Forces in foreign areas vary from area to area. It is therefore considered unnecessary and, at times, even undesirable to attempt uniformity of detail in the systems used among different areas.

II. BASIC PRINCIPLES

The individual details of non-U.S. citizen personnel systems may vary from area to area, but the system for any area should satisfy the following basic principles:

A. That local law and customs be followed in the employment and administration of local national personnel to the extent that such laws and customs are compatible with the basic management needs of the U.S. Forces. Ordinarily, those exemptions from usual practice which are accorded the host government, as an employer, would be sufficient to protect the U.S. Forces management needs. Where they do not, substitutes or alternatives should be agreed upon by the host government and the U.S. Forces.

Figure A-1. Department of Defense Instruction

B. That local nationals be utilized as extensively as practicable by the U.S. Forces in order to reduce the need to import workers into the host country. From the host country's point of view, this reduces the possibilities of friction.

C. That the provisions of the system in any one area apply uniformly to all elements of the U.S. Forces.

D. That the system established for the U.S. Forces be no less favorable than those applying to other guest forces within the same country.

III. EMPLOYMENT SYSTEMS

Non-U.S. citizen employment programs in foreign countries fall into two general categories; those under which the employees are hired directly by the U.S. Forces as employees of the United States Government, and those where the personnel are actually employees of the host government, or an agency of that government, and are assigned to work with the U.S. Forces on a reimbursable cost or other predetermined basis. The system to be used in a particular country will depend upon a number of circumstances relevant to particular areas including U.S. Foreign policy considerations, and a decision as to which system should apply must be made in consideration of these factors. Some of the more important of these considerations are as follows:

A. Direct Hire

Under the direct hire system, the U.S. Forces are, in fact, the official employer of their non-U.S. citizen personnel and, as such, assume responsibility for all administrative and management functions in connection with the employment. This method usually offers flexibility in terms of employee selection, placement, and control and reduces, to a great extent, the necessity for constant contact and coordination with the host government. Although specific criteria cannot be prescribed, the presence of one or more of the following conditions might influence a decision to use a direct hire method:

1. The host government has no objection to a direct hire system.
2. The numbers of persons to be employed will have little or no effect on the local economy and do not warrant long and costly negotiation and preparation for an indirect hire arrangement.
3. The provisions of a treaty or appropriate agreement provide the U.S. Forces with legal authority to follow local law or customs.*
4. The host government does not desire to or is unable to discharge the responsibilities inherent in an indirect hire system.

B. Indirect Hire

The indirect hire system provides that the host government assume the responsibility of assuring that the needs of the U.S. Forces for local national personnel are met and that the host government be in fact the official employer of such personnel but that the host government specifically grant to the U.S. Forces operational control under a program mutually agreed to by the host and the U.S. Forces for the day to day

*Ed. Note. Authority for U.S. Government agencies to follow local law and customs in fixing compensation of their local national employees in foreign areas is provided by Article 444 of the Foreign Service Act of 1946 as amended.

management of such personnel. Although specific criteria cannot be prescribed, conditions which might influence a decision to use this method may be:

1. The host government is capable of and desirous of discharging the responsibilities inherent in an indirect hire agreement.
2. Local employment conditions differ materially from those found inside the continental United States and usual employment practices for direct hire employees would be inappropriate.
3. A large number of employees will be required for a limited time, which may result in a disruption in the local labor market when their services are no longer required.
4. Direct hire of local nationals will disrupt the local market for any reason and the host government is in the best position to cope with the situation.

IV. TREATIES AND AGREEMENTS

A. The establishment of military bases by the U.S. Armed Forces in the territory of another nation is normally governed by the provisions of a treaty or other formal agreement between the two countries. When such a treaty or agreement is negotiated, it should include coverage on the subject of employment or utilization of local civilian labor. Such coverage then becomes the authorization or legal basis for such employment, and is considered essential, regardless of the type of employment program planned. The negotiation of such a basic treaty or agreement is the responsibility of the Department of State. The Department of Defense or its agencies usually participate in the negotiations, however, at least to the extent of furnishing technical advice and guidance to State Department. This guidance, with respect to local labor, should be predicated on the three following general considerations:

1. That due recognition be given to the sovereignty of the host country.
2. That adequate protection be afforded the U.S. Forces as a sovereign guest.
3. That the personnel program established provide the command with a work force which will be as stable, efficient and economical as local conditions will permit.

B. Traditionally, treaties or agreements of this kind, negotiated at diplomatic levels, are couched in broad terms. In the field of labor, inclusion in the treaty or agreement of only the most basic terms of reference is sufficient, provided the treaty or agreement itself requires the conclusion of a detailed subsidiary arrangement at a lower governmental echelon. Examples of basic terms of reference which should be covered, in the treaty or agreement, and recommended coverage on each, is outlined in paragraph II above. In conjunction with the formal agreement and implementing arrangements it is imperative that a specific official or agency of the host government be designated as the official contact with the U.S. Forces on all personnel matters.

Figure A-1. Department of Defense Instruction—Continued

V. SUBSIDIARY AGREEMENTS

A. A basic agreement containing broad coverage, as outlined above, provides the terms of reference which are necessary for the formulation of a more detailed operating agreement or arrangement. The subsidiary or implementing arrangements should provide as complete and detailed coverage on all aspects of the management and administration of the non-U.S. citizen personnel as the local situation permits. Subjects which may be covered are contained in the following subparagraphs:

1. Responsibility for Recruitment

a. Direct Hires

In the case of direct hires, the responsibility for recruitment should be vested in the U.S. Forces. However, the agreement might provide for assistance from the host government through its existing facilities. This might take the form of the host government procuring qualified applicants and referring them to the U.S. Forces for selection. In such cases, the U.S. Forces would have the right to accept or reject any applicant so referred.

b. Indirect Hires

Usually, the host government through its existing facilities should perform the task of recruiting civilian workers. The host government should procure qualified applicants and refer them to the U.S. Forces for selection. The U.S. Forces should be accorded the right to accept or reject any applicant so referred. In addition, the U.S. Forces should be permitted with the consent of the host government to recruit to the extent that the facilities of the host government are unable, for any reason, to provide qualified personnel as required.

2. Security Measures

a. It is imperative that the U.S. Forces take certain measures to protect their own security. The agreement should provide for appropriate investigative requirements for employment of non-U.S. citizens in accordance with Department of Defense Directives, Instructions, or regulations relating to security requirements for Government employment, or for access to classified defense information.

b. The agreement should provide that no person will be employed by the U.S. Forces if his employment is not clearly consistent with the interests of the national security. The U.S. Forces should be authorized to effect the release of any local national who is considered to be a security risk, as long as such person is fairly treated.

c. In view of the fact that discharge of non-U.S. citizen employees on grounds of security may be a serious cause of grievance and labor unrest, carefully devised procedures should be instituted to assure there is no misuse of this authorization.

3. Priority Accorded U.S. Forces in Labor Market

Figure A-1. Department of Defense Instruction—Continued

Under normal peacetime conditions, it is rarely necessary to establish labor priorities for U.S. Forces, however, the subject should be considered and provision made for establishing such priorities in the event of an emergency. If, and when, it becomes necessary to establish priorities, it is desirable that the U.S. Forces be accorded the same priority as that of the armed forces or essential industry for the host country, particularly if the U.S. Forces are present for the purpose of participating in the defense of the area or as an ally of the host country.

4. Host Government Control on Personnel Requirements

Only in rare instances has a host government imposed any control on the number of local nationals utilized by the U.S. Forces. Such control by the host government should be avoided if possible, unless a valid reason for such control exists, such as:

- a. Labor market in short supply.
- b. Protection of local economy from disruption caused by the U.S. Forces having a disproportionate share of available labor.
- c. Existence of emergency conditions.

5. Importation of Workers

The U.S. Forces should not import workers from a third country into the host country when personnel requirements can be satisfied by local labor. If personnel needs in any occupational category cannot be satisfied, arrangements should be made with the host government to permit importation of workers from other countries who are acceptable to the host government, in the skills and numbers required, and the host government should be asked to cooperate to the extent of issuing to such workers the necessary documentation for residence, working permits, etc.

6. Employment Conditions

Local nationals should be afforded conditions of employment which are based on local law and custom and which are generally equivalent to those enjoyed by persons with similar skills and in similar occupations in the general economy of the host country. Employment conditions offered should be favorable enough to meet existing fair standards in the labor market, but not so advantageous as to create a "privileged group" within the country. Alternate provisions for local laws or customs may be necessary in instances where United States laws or operational requirements of the U.S. Forces make adherence to local law and custom impossible or extremely difficult.

7. Application of Wage and Salary Scales

- a. In the case of direct hires, it is customary to use either variations of the classification and grading plans used for positions held by the U.S. citizens or those used locally, and to determine wage and salary scales on the basis of the local prevailing rates. Complete authority to determine the grade or classification of a position and to assign employees to such position should be vested in the U.S. Forces.

Figure A-1. Department of Defense Instruction—Continued

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- b. When an indirect hire system is adopted, the detailed arrangement should provide for the principles and procedures to be followed in establishing kinds of positions and determining the wage and salary rates for such positions together with a listing of the positions initially required and with the wage and salary rates applicable to them. Rates of pay should be mutually agreed to by the official or agency of the host government designated as the official contact and the U.S. Forces should conform as closely as possible to rates paid locally for comparable work in the area of employment. It should then be the responsibility of the U.S. Forces to determine the proper classification of each of its positions within the established listing and the proper rate to be paid the incumbent.

In the day-to-day operations of a civilian personnel program, changing conditions necessitate many changes in wage scales, wage rates and, to a lesser degree, employment conditions. When an indirect hire system is adopted, it will usually be beneficial to have the employment conditions (paragraph 6 above) and the wage and salary scales (paragraph 7 above) written as a supplement to the subsidiary agreement. The subsidiary agreement can then provide for making such changes in the supplement as are required by changing conditions by mutual agreement at a relatively low level without the necessity for renegotiating the whole agreement each time a change is necessary.

8. Social Security Coverage

Unless special local conditions dictate otherwise, local nationals should be covered under the existing social security program of the host government.

In the case of direct hire employees, there is at present no legal authority for the U.S. Government paying the employer's share of the social security contribution unless the Treaty or subsidiary agreement so provides. When either the direct hire or the indirect hire method is used the Treaty or subsidiary agreement should provide that local nationals will, or will not, be covered by the existing social insurance and workmen's compensation benefits of the host country. Where employees are so covered, the employer's contribution to social insurance will be made by the U.S. Forces either directly or by reimbursement of the host government.

9. Complaints

With respect to matters pertaining to the existing arrangement, that are within the U.S. Forces areas of responsibility, the U.S. Forces should establish adequate machinery appropriate to the local situation to deal directly with complaints which may arise. The host government should receive complaints which fall within the area of its responsibility as well as all suggestions for a change of the agreement between the host government and the U.S. Forces.

10. Strike Prohibition

Whenever it is considered possible, and particularly in those countries where employees of the government are not permitted to strike,

Figure A-1. Department of Defense Instruction—Continued

an agreement should be sought which will provide that local nationals will not have the right to strike against the U.S. Forces.

11. Administrative Costs

A method of determining the administrative costs incurred by the host government in providing personnel and assuming certain administrative responsibilities under an indirect hire system should be developed. The extent to which these costs will be borne by the U.S. Forces, the manner in which payments for any assessed costs will be made by the U.S. Forces, and the extent to which it may be mutually desirable for the U.S. Forces to audit expenditures for administrative costs should be agreed upon.

B. Division of Responsibilities

The recommendations contained in paragraphs 1 through 11 above, relating to the indirect hire system, visualize an arrangement whereby the host government assumes the status of employer, employs the personnel, performs certain administrative functions and furnishes the personnel to the U.S. Forces on some form of reimbursable basis. In a system of this type, the host government and the U.S. Forces each have certain responsibilities and functions. The recommended division of the more important of these is as follows:

1. Host Government

- a. Recruitment of personnel and referral of qualified applicants to U.S. Forces for selection.
- b. Appointment of those applicants who are selected.
- c. Maintenance of personnel records.
- d. Preparation of payrolls and paying of personnel.
- e. Completing personnel actions requested by U.S. Forces such as promotions, transfers, separations, etc.
- f. Negotiations with trade unions, except that in areas of agreed U.S. Forces responsibility and in matters pertaining to provisions of the basic treaty and subsidiary agreement, no binding obligation should be concluded in any negotiation between host government and trade unions without concurrence of the U.S. Forces.

2. U.S. Forces

- a. Establishment of number and types of positions required and transmittal of requests to host government for personnel.
- b. Determination of the proper classification of individual positions within an established wage and salary structure.
- c. Selection of personnel from applicants referred by host government.
- d. Submission of time and attendance reports to host government agency preparing payrolls.
- e. Assignment, supervision, control and training of personnel.
- f. Determination of promotions, demotions, transfers, separations.

Figure A-1. Department of Defense Instruction—Continued

g. Audit of payrolls prepared by host government.

h. Consultation with trade unions or labor organizations.

The division of responsibilities which is agreed upon should be clearly delineated in any subsidiary agreement on an indirect hire method.

VI. COORDINATION

The Commander of a unified or specified command will—

A. Insure coordination between commands of all military departments within his geographical area of responsibility on all matters pertaining to the initiation or conduct of labor negotiations.

B. Submit to the Secretary of the department responsible for administrative and logistical support of his headquarters, as defined in Department of Defense Directive 5100.3, 12 September 1958, the following:

(1) Statement, prior to the initiation of negotiations, of the need for establishment of agreements or changes of major significance in existing arrangements. Proposals and recommendations for action will include pertinent information of concurrence or nonconcurrence by military commands in the area, and the expected role of the Department of State in the negotiations.

(2) Report of developments in negotiations as they occur, including the conditions or employment proposed by the negotiating representatives of the United States and/or the host country.

(3) Request for advice as necessary to resolve legal, technical, fiscal, and policy problems and to obtain coordinated position of Federal Departments concerned in negotiations.

(4) Consummated agreements, including agreements and subsidiary arrangements, in sufficient copies for distribution to other military departments with direct interest in the area.

C. The Secretary of the military department receiving the information will insure that (1) Military and other departments concerned are fully advised of developments, and (2) Guidance provided the specified or unified commander is coordinated with the military departments and, as required, other departments.

D. The Secretary of each military department will establish appropriate channels to insure prompt consideration of all matters received for coordination; and will keep the Assistant Secretary of Defense (Manpower, Personnel, and Reserve) fully advised of all significant developments within his area of interest.

VII. ACTION REQUIRED

The principles stated herein should be made known to all authorities who will participate in negotiating treaties or agreements to serve as a guide in such negotiations. These principles should also be made known to all overseas commands to serve as a guide in the negotiation of arrangements and in administratively determining policies, programs, and practices for utilization of local nationals.

Figure A-1. Department of Defense Instruction—Continued

A-2. Title not used.

Paragraph not used.

Appendix B

EXCERPTS FROM THE GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR, 12 August 1949

B-1. Excerpts from the Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

Those articles of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, which have a bearing on the utilization of indigenous (non-U.S.) labor are quoted below for information and guidance. Certain of the Articles quoted make reference to other Articles of the Convention which treat matters outside the scope of this publication. In such cases, the Articles referred to are not quoted.

ARTICLE 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

ARTICLE 4

Persons protected by the Convention are those who at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a cobelligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, or by the Geneva Convention relative

Figure B-1. Excerpts from the Geneva Convention Relative to the Protection of Civilian Persons in Time of War

to the Treatment of Prisoners of War of August 12, 1949, shall not be considered as protected persons within the meaning of the present Convention.

ARTICLE 5

Where, in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity, and in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

ARTICLE 6

The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

ARTICLE 7

In addition to the agreements expressly provided for in Articles 11, 14, 15, 17, 36, 108, 109, 132, 133, and 149, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, nor restrict the rights which it confers upon them.

Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the Conflict.

Figure B-1. Excerpts from the Geneva Convention Relative to the Protection of Civilian Persons in Time of War—Continued

ARTICLE 8

Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

ARTICLE 27

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

ARTICLE 39

Protected persons who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the Power in whose territory they are.

Where a Party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.

Protected persons may in any case receive allowances from their home country, the Protecting Power, or the relief societies referred to in Article 30.

ARTICLE 40

Protected persons may be compelled to work only to the same extent as nationals of the Party to the conflict in whose territory they are.

If protected persons are of enemy nationality, they may only be compelled to do work which is normally necessary to ensure the feeding, sheltering, clothing, transport and health of human beings and which is not directly related to the conduct of military operations.

In the cases mentioned in the two preceding paragraphs, protected persons compelled to work shall have the benefit of the same working conditions and of the same safeguards as national workers, in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for occupational accidents and diseases.

If the above provisions are infringed, protected persons shall be allowed to exercise their right of complaint in accordance with Article 30.

Figure B-1. Excerpts from the Geneva Convention Relative to the Protection of Civilian Persons in Time of War—Continued

ARTICLE 51

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressures or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article.

In no case shall requisition of labour lead to a mobilization of workers in an organization of a military or semi-military character.

ARTICLE 52

No contract, agreement or regulation shall impair the right of any worker, whether voluntary or not and wherever he may be, to apply to the representatives of the Protecting Power in order to request the said Power's intervention.

All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited.

Figure B-1. Excerpts from the Geneva Convention Relative to the Protection of Civilian Persons in Time of War—Continued

B-2. Title not used.

Paragraph not used.

Appendix C

LIST OF BUREAU OF LABOR STATISTICS REPORTS ON LABOR LAW AND PRACTICE IN FOREIGN COUNTRIES

C-1. List of Bureau of Labor Statistics Reports on Labor Law and Practice in Foreign Countries.

U.S. Department of Labor, Bureau of Labor Statistics Reports on Labor Law and Practice in the following countries have been distributed to joint and specified command headquarters and selected Service activities and schools. Additional copies are available through Service supply channels:

<i>Report Number</i>		<i>Report Number</i>	
357	Afghanistan (1969)	376	Japan (1970)
344	Argentina (1968)	322	Jordan (1967)
328	Australia (1967)	361	Korea (1968)
241	Austria (1963)	290	Laos (1965)
372	Belgium (1970)	304	Lebanon (1966)
218	Bolivia (1962)	297	Libya (1966)
337	Botswana (1968)	274	Malaysia and Singapore (1965)
309	Brazil (1967)	240	Mexico (1963)
264	Burma (1964)	282	Morocco (1964)
227	Ceylon (1962)	258	New Guinea (1964)
339	Chile (1968)	321	New Zealand (1967)
217	Colombia (1962)	265	Nicaragua (1964)
220	Costa Rica (1962)	271	Pakistan (1964)
343	Dominican Republic (1968)	356	Panama (1970)
242	Ecuador (1963)	338	Peru (1968)
280	El Salvador (1964)	253	Philippines (1963)
298	Ethiopia (1966)	269	Saudi Arabia (1964)
325	Greece (1968)	289	Spain (1965)
223	Guatemala (1962)	285	Sweden (1964)
324	Guyana (1967)	268	Taiwan (1964)
244	Haiti (1963)	267	Thailand (1964)
189	Honduras (1961)	294	Tunisia (1965)
371	Iceland (1970)	239	Turkey (1963)
303	India (1966)	275	United Arab Republic (1964)
336	Indonesia (1968)	270	U.S.S.R. (1964)
276	Iran (1964)	212	Venezuela (1962)
221	Iraq (1962)	327	Viet-Nam, South (1968)
315	Israel (1967)	250	Yugoslavia (1963)
320	Jamaica (1967)		

Figure C-1. List of Bureau of Labor Statistics Reports on Labor Law and Practice in Foreign Countries

C-2. Title not used.

Paragraph not used.

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